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Agenda item 6

DRAFT REPORT OF THE STANDING COMMITTEE ON DEVELOPING SERVICE SECTORS: FOSTERING COMPETITIVE SERVICES SECTORS IN DEVELOPING COUNTRIES

SHIPPING

First session

Held at the Palais des Nations, Geneva,
from 2 to 6 November 1992

Rapporteur: Mr. Norifumi Ide (Japan)

CONTENTS

Chapter		Paragraphs
	Introduction	1 - 32
I.	Establishment of the work programme of the Standing Committee on Developing Services Sectors: Fostering Competitive Services Sectors in Developing Countries: Shipping (agenda item 3)	1 - 2
II.	Organizational matters	1 - 4

Annex: Membership and attendance

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INTRODUCTION

1. The Standing Committee on Developing Services Sectors: Fostering Competitive Services Sectors in Developing Countries - Shipping, established in accordance with paragraphs 70 and 72 of the Cartagena Commitment, held its first session at the Palais des Nations, Geneva, from 2 to 6 November 1992. In the course of the session, the Standing Committee held ..... plenary meetings. */

Opening statements

2. The Deputy Secretary-General of UNCTAD highlighted the particular importance of the first session of the Standing Committee on Developing Services Sectors devoted to shipping for deliberations in UNCTAD and international cooperation in maritime transport. He underlined the main objectives of the meeting in the preparation of the work programme in the fields of shipping, ports and multimodal transport. Recalling the decisions taken at UNCTAD VIII and by the Trade and Development Board in the field of maritime transport, he stressed that this work should be concentrated on reviewing shipping policies and experiences to identify elements leading to the development of competitive services and the consideration of conditions facilitating intra- and interregional cooperation, since competitive services were essential to developing countries' international trade. To achieve this, the total transport chain needed to be combined and strengthened to meet technological change. Specifically, the work should focus on: (1) the development of infrastructure, including ports; (2) the efficient conduct of multimodal transport processes; and (3) human resources needs. He pointed to the importance of strengthening national capacities in these three areas. It was essential to identify the crucial needs of developing countries to enable them to respond to changes, as well as to build up the necessary international cooperation in an integrated and liberal commercial environment.

3. The information contained in the reports prepared by the UNCTAD secretariat gave good indications for possible activities of the organization in the fields concerned, since they reproduced the main findings and

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*/ For the terms of reference of the Standing Committee, see Trade and Development Board decision 398 (XXXVIII), annex B.

recommendations of different expert groups. He observed, however, that the report titled "Draft programme of work of the Standing Committee on Developing Services Sectors: Fostering Competitive Services Sectors in Developing Countries: Shipping" (TD/B/CN.4/4) was not a negotiating text but rather an outline of activities that needed to be prioritized.

4. The Deputy Director of the Services Development Division felt that the deliberations on maritime problems in UNCTAD would have a significant impact on the future relationship between developed and developing countries in the field of shipping. Introducing the secretariat document on the draft programme of work (TD/B/CN.4/4), he said that in the field of shipping the proposals were concentrated on four major issues: comparative analysis of national policies and their effectiveness; the analysis of structural changes affecting shipping; shipper/shipowner relations; and review of ECDC policies and mechanisms. In the field of ports, document TD/B/CN.4/4 set out a programme of work which was a result of the recommendations of the Ad hoc Intergovernmental Group of Port Experts held in 1990 and of the research carried out by the secretariat. As ports had evolved from a terminal point in the transport chain into service centres of the international transport network, there was now a need for a wider and more coherent approach to their activities. This evolution in ports was in line with structural and technological changes in trade and transport, such as just-in-time delivery and transhipment. The proposals for work in this area covered the economic, commercial, financial, organizational, managerial, operational, legal and environmental aspects.

5. In the field of multimodal transport, containerization and technological developments, he stressed the need for technical assistance activities and related substantive studies on structural changes in transport supply and demand, changes in transport technology, and changes in the institutional environment of developing countries and countries in transition. The secretariat was therefore hoping to be able to continue the work of the Expert Group on Shipping, Ports and Multimodal Transport.

6. Concerning work on maritime legislation, he gave information about the forthcoming United Nations/International Maritime Organization Conference of Plenipotentiaries on Maritime Liens and Mortgages scheduled to be held in Geneva from 19 April to 7 May 1993 for the consideration and adoption of a draft convention prepared by the Joint UNCTAD/IMO Intergovernmental Group of

Experts. He also recalled the on-going work on general average in the Working Group on International Shipping Legislation, which had held its twelfth session in October 1990, and the pending decision concerning future work on charter parties.

7. Finally, he mentioned the importance of cooperation with non-governmental organizations in implementing the work programme. Their participation was in line with the provisions of the Cartagena Commitment. Moreover, the work of the Expert Group on Shipping, Ports and Multimodal Transport provided an effective means of dealing with problems facing developing countries and could play an important advisory role for the Standing Committee.

8. The spokesman for the Asian Group (Philippines) said that the comprehensive work programme proposed by the secretariat on shipping, ports and multimodal transport, maritime legislation and technical cooperation could be synchronized and harmonized for the facilitation of both international shipping and trade. He strongly supported the focus on the monitoring and analysis of developments and trends in the various fields of maritime transport, maritime legislation and technical cooperation that were supportive of the interests of developing countries in general, as proposed by the secretariat. His Group proposed that high priority be accorded to the following programme activities:

(a) Shipping: Identification of barriers to international shipping; analysis of domestic shipping policies including those of NGOs; the application of liberalization vis-à-vis the Convention on a Code of Conduct for Liner Conferences and the Convention on Conditions for Registration of Ships.

(b) Ports: guidelines for privatization, optimizing existing port facilities, standards for workers' training, monitoring of structural, technological and institutional changes, and identification of areas for enhancing cooperation among port authorities of developing countries.

(c) Multimodal transport: monitoring and analysis of changes in the transport information technology and in transport supply and demand.

(d) Maritime legislation: review of follow-up actions on general average, on charter parties including standards for the use and hire of ships, and on the 1952 Convention on the Arrest of Ships; assistance in the implementation of the Hamburg Rules and the harmonization and modernization of national legislation through a model code.

(e) Technical cooperation: assistance to developing countries on economics and management of shipping, implementation of resolutions and conventions, multimodal transport, containerization and technological developments, management training, requirements for the improvement of shipping.

9. Finally, the Asian Group supported the creation of appropriate subsidiary organs composed of experts to deal with technical and legal issues. He also called for special attention to be given to the situation of least developed and island developing countries.

10. The spokesman for the African Group (Nigeria) pointed out that developing countries owned about 21 per cent of the total world fleet. This percentage, however, was disproportionate to the cargoes generated by developing countries and ownership was in fact concentrated in only a few countries. His Group was concerned at the growing trend towards liberalization measures in the maritime sector, believing that in general liberalization must be introduced progressively to ensure that developing countries' merchant fleets were not adversely affected and that changes were set in the wider context of economic adjustment programmes.

11. With regard to the work programme, he stated that the African Group attached particular importance to (i) the Working Group on International Shipping Legislation; (ii) ship financing for developing countries; (iii) the forthcoming UNCTAD/IMO Conference on Maritime Liens and Mortgages; and (iv) the technical cooperation programmes such as TRAINMAR, JOBMAR, ACIS and ASYCUDA.

12. The representative of Japan focused on three key elements of the proposed work programme. First, he considered that the concepts of privatization, commercialization and progressive liberalization, including cooperation with developed countries, should be included in the programme. Secondly, development of human resources should be emphasized as an essential aspect of technical assistance activities. Thirdly, work programme elements needed to

be prioritized within the time-span and existing resources. When it came to setting guidelines for specific work, he cautioned that governments should not become involved in issues that were better dealt with by the private sector. The programme should avoid duplication and inconsistency with the work of other international bodies, and should be clearly defined to bring about results over the next four years. Finally, he considered that legal aspects of the work programme were not an immediate priority because legal matters should be examined when the exercise on socio-economic factors justified it.

13. The representative of China expressed his delegation's appreciation for the draft programme of work (TD/B/CN.4/4), which reflected the main issues of maritime transport and problems in other transport-related areas. In general, he felt that cooperation among developing countries in shipping matters, as well as between developing countries and developed countries, should be reinforced. In particular, it was hoped that martime developed countries could provide the developing countries with efficient assistance in shipping infrastructure, ship financing, technological development and technology transfer.

14. The representative of Peru, underlining the importance of shipping in international trade, said that the ultimate goal was to provide a service of quality at a competitive cost in order to meet adequately the transport requirements of the trading community. Although developing countries had increased their participation in world shipping and they now controlled between 10 and 20 per cent of the world fleet, 80 per cent of those ships were owned by eight countries. In this connection, he noted that a document prepared by the secretariat stated that the problems of shipping in developing countries should be solved through the development of national infrastructure and capabilities, as well as through policies and regulations aimed at fostering competitiveness in a free market. UNCTAD's medium-term plan for the years 1992-1997 forecast that the work should be focused on four areas of activity: shipping; ports and related services; international multimodal transport; and maritime and transport legislation. These four areas of activity reflected the terms of reference approved by the Trade and Development Board at the second part of its thirty-eighth session. That should guide the Standing Committee in adopting its work programme for the

period 1993-1995. In the area of shipping, analytical work should be carried out on national shipping policies in order to identify ways in which maritime transport could be developed most beneficially. In addition, the international strucutural and technological developments should be closely monitored and reported. In the field of ports, he underlined two main issues: port management and port infrastructure. In the area of multimodal transport, he stressed the importance of identifying ways to ensure the efficient conduct of multimodal transport processes, bearing in mind the economic, commercial and legal aspects.

15. He considered that it was important to pursue the work on maritime and transport legislation in the new context of liberalization. This would include, in particular, helping developing countries to modernize their national legislation on maritime transport, continuing with the work on ship financing (including ship leasing), and revising the Convention on the Arrest of Ships. Assistance should be provided to developing countries to enable them to increase their knowledge of charter parties and general average and to promote cooperation in the field of maritime transport at the regional and subregional levels through the harmonization of their maritime laws and regulations. In this context, it was essential for developing countries to have access to technical cooperation programmes.

16. The representative of Mexico emphasized the role of maritime transport in the Mexican foreign trade and referred to the measures being taken to modernize and privatize national ports. The UNCTAD secretariat had an important role to play in supporting private and public entities in their efforts to improve maritime transport and the related services sector. The TRAINMAR centres were very useful in helping developing countries to benefit fully from technical assistance in ports and multimodal transport. His delegation considered that the Committee's programme of work should reflect the Cartagena Commitment and provide a balanced set of actions for addressing national and international issues.

17. The representative of the United States of America said that the new spirit of partnership among States meant that better and more efficient use should be made of resources in all fields between now and UNCTAD IX. Experience was available in different countries on the several alternatives to

investment in shipping and that experience should be taken into account. He felt that shipping should be regarded in its two aspects: as a service to trade and as a tool for development. In the view of his delegation, the four priority items for the programme of work were:

(a) to assess whether investment in the merchant marine was feasible for countries, taking into consideration transport needs; in this context he pointed to the analytical tools available for this assessment, such as cost-benefit analysis;

(b) if investment in shipping was feasible, the studies should identify policies that promoted the provision of competitive shipping services; for this, case studies should be used;

(c) when companies were already in the shipping business, the studies should indicate the need for these companies to be market-oriented, for the skill of their management to be good enough for exposure to the world competition, and for the experience of the private sector to be taken into account;

(d) finally, studies should identify the weaknesses in shipping, ports and multimodal transport that precluded the functioning of competitive shipping services.

18. The representative of Australia stated that his country was mainly a user of shipping services, its own fleet carrying less than 10 per cent of the country's seaborne trade. He felt that a new approach to maritime transport problems was needed which would enable all countries to benefit from the improvement of maritime transport.

19. Referring to the work programme of the Standing Committee, he pointed out that it should meet the following requirements: it should be relevant to the terms of reference of the Committee, should be specific and clear, and should be achievable. The Committee must decide on the priorities of its work. In general, there should be a balance of interests of shippers and shipowners, orderly dissemination of information on ports, and development of multimodal transport.

20. The representative of Canada believed that the Spirit of Cartagena should inspire the work of the Standing Committee. The main challenge for the Committee was to set priorities for a practical work programme which could be accomplished before UNCTAD IX. This was particularly important in today's

economic environment of limited resources. To help the Committee to prioritize topics, he requested that the UNCTAD secretariat make a statement on the human and financial resources currently available. In general, he urged the Committee to focus on issues relating to: (i) the users of maritime services; (ii) port management; (iii) human resource development; and (iv) multimodal transport.

21. The representative of the Russian Federation stated that, as the legal successor to the former USSR in the United Nations, his country was interested in the improvement of UNCTAD's activities in the field of shipping and in the improvement of the quality of the work of the secretariat and the documents prepared by it.

22. Referring to the draft work programme (TD/B/CN.4/4), the representative of Poland said that it was important to examine in greater depth the balanced development of shipping services. The analysis of new developments should lead to remedies to rectify possible imbalances between supply and demand in all sectors of world shipping markets.

23. The representative of the International Association of Ports and Harbours (IAPH) endorsed the programme of work proposed by the secretariat in the field of ports and said that the Association could provide assistance through existing information and surveys of its membership. More specifically, the Association was willing to continue its support for the kind of joint work carried out in the past, such as monographs on port management. IAPH was also ready to support training programmes such as TRAINMAR and JOBMAR, and the organization of joint regional seminars. Finally, IAPH endorsed the proposal for a port meeting in 1993 devoted exclusively to discussing port matters.

24. The observer of the International Chamber of Commerce (ICC) said that promoting the economic growth of developing countries was a key objective of ICC and that cooperation with UNCTAD, particularly in the maritime field, had been particularly fruitful. In the light of the decision that would be taken by the Committee on the work programme, ICC would consider how best to continue its collaboration. Among the various possible subjects, ICC was very interested in that of ship leasing, especially from the point of view of developing countries. ICC recognized the financial burden placed on some developing countries which were trying to maintain a shipping fleet to assist

in trading their goods internationally. In pursuing its key objective of fostering the growth of developing countries, ICC had created the Centre for Maritime Cooperation (CMC) specifically to assist the shipping industry in developing countries by disseminating information and educating commercial parties in developed countries about the potential mutual advantages of entering into joint shipping ventures with developing nations. Ship leasing could indeed offer both developed and developing countries equally interesting opportunities. In principle, therefore, ICC would be prepared to work jointly with UNCTAD on this subject. ICC and its Commission on Sea Transport would be glad to give further consideration to this and other matters once more formal proposals had been developed.

25. The representative of the Board of the Cartagena Agreement (JUNAC) said that the proposed programme of work for the Committee was timely and of key importance to the Andean Pact countries. Drastic changes had recently occurred in shipping in the five countries: cargo reservation laws had been eliminated, opening access to any carrier; at the same time, shipping policies were being considered to promote the merchant marine of the Andean Pact, to offer the possibility of a second register, to promote joint ventures and remove some of the labour and fiscal requirements imposed on shipping companies. Another element of change was the liberalization and commercialization that were being applied to the port sector. Regarding multimodal transport, he stated that a recent meeting of transport Ministers had recommended the implementation of a law on multimodal transport by the five countries of the Andean Pact. In the light of these efforts, he felt that the new programme of work should seek to ensure that countries such as the Andean Pact countries should obtain full support from the UNCTAD secretariat in the implementation of their new and market-oriented transport policies.

26. The representative of the United Kingdom, speaking on behalf of the European Community and its member States, emphasized that the programme of work on shipping should fully reflect the implications of the Cartagena Commitment, bearing in mind that shipping was a central element of global transport issues and that transport was crucial to trade. The objectives of the participation of developing countries in international shipping should therefore be addressed more realistically, and the aspects of liberalization

more substantially. The Community was committed to the importance of technical cooperation, which was intended to support and assist developing countries in the identification of their weaknesses and capabilities in the services sector and in making their services sector more competitive.

27. The representative of the Commission of the European Communities, elaborating on the above remarks, observed that past and present shipping policies must first be analysed taking into account their global effect on trade. The analysis should cover the relationship between sectoral policies and the overall economic and development policy. Emphasis should be placed on analytical work which promoted consensus on the shipping-related issues. He felt that the proposed programme of work was not focused on priority subjects and was too wide-ranging to be realistic. The basic task of the Committee was to define a well-focused and manageable programme of work to be carried out until its second session on maritime issues. The Committee would then, at its next session, be in a position to determine whether any shift of emphasis or any additional items would need to be included for subsequent work.

28. The representative of the International Labour Office (ILO) recalled the maritime conventions and recommendations adopted by the Organization, known as the International Seafarers' Code. Referring to certain policy issues in the draft work programme - i.e. comparative analysis of national shipping policies and their impact on fleet development and service qualities, as well as the comparative analysis on conditions for registration of ships and possible action towards implementation of provisions of the United Nations Convention on Conditions for Registration of Ships - he suggested that the Committee include in these said analyses policies related to the application of relevant maritime labour Conventions that would ensure that a ship was considered standard by any port State control agreement in force. Moreover, any action taken in the field of human resource development should ensure that the minimum ILO standards were complied with. This would require a programme for harmonizing maritime labour legislation. As to the draft programme on ports, he observed that institutional adjustments were being made in the port industry and that rapid changes were taking place in the operation of ports by national port authorities. These changes affected port labour. He pointed out that any project for port privatization should include a training scheme

for retraining people who had been made redundant by such privatization. The ILO had a programme for harmonizing port worker training courses and ILO and UNCTAD's TRAINMAR project were working closely in Latin America in this field. The ILO was ready to collaborate closely with UNCTAD in the realization of the final programme the Committee would adopt, and he urged that issues affecting employment opportunities be contemplated from the perspective of both ILO and UNCTAD.

29. The observer for the International Association of Cities and Ports (IACP)* said that his organization, which was founded in 1988, sought to build up on objectives of cities and ports to promote economic and social development. The Association believed that exchange of information and solidarity between ports and cities would benefit ports and cities throughout the world, and it was willing to support the work of the Committee to promote the role of ports as focal points in international trade.

30. The observer for the International Federation of Freight Forwarders' Associations (FIATA) said that formerly freight forwarders had acted in the organization of transport chains as agents of shippers, but today they were accepted as carriers with overall responsibility and liability for the transport chain and they issued a single transport document as multimodal transport operators. Multimodal transport was an integrated part of production and an important means for developing countries to develop their local and foreign trade and commerce. He pointed out that freight forwarders did not require specific infrastructure or equipment of their own, but took advantage of efficient transport systems and of technology related to containerization and electronic data interchange.

31. He recommended that consultation mechanisms be built up between governmental entities, freight forwarders, transport carriers and transport users to discuss all matters of common interest for developing multimodal transport. The task of such consultation bodies should be to identify existing obstacles and to assist in improving the national transport environment. One of the main obstacles to the development of multimodal

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*/ Participating in the session by decision of the Standing Committee at its 3rd meeting, on 3 November 1992.

transport in developing countries was the lack or inadequacy of the institutional and legal transport environment. An excellent example of a liberal legal framework for multimodal transport operations was the legislation governing multimodal transport in the Andean Pact countries, where the legislation was or was expected to be principally based on the UNCTAD/ICC Rules for Multimodal Transport Documents.

32. Acknowledging that the lack of well-trained personnel was a problem in the development of transport sectors, especially in multimodal transport, he said that UNCTAD and FIATA were currently investigating the possibility of organizing workshops on multimodal transport.

Chapter I

ESTABLISHMENT OF THE WORK PROGRAMME OF THE STANDING COMMITTEE ON DEVELOPING SERVICES SECTORS: FOSTERING COMPETITIVE SERVICES SECTORS IN DEVELOPING COUNTRIES: SHIPPING

(Agenda item 3)

1. For its consideration of this agenda item, the Standing Committee had before it the following document prepared by the UNCTAD secretariat:

"Draft programme of work of the Standing Committee on Developing Services Sectors: Fostering Competitive Services Sectors in Developing Countries: Shipping" (TD/B/CN.4/4)

In addition, the following documents were also made available to the Standing Committee to assist it in the consideration of this item:

"Industry and policy developments in world shipping and their impact on developing countries" - report by the UNCTAD secretariat (TD/B/CN.4/5)

"Report of the Expert Group on Shipping Policy convened by the Secretary-General of UNCTAD" (18-19 May 1992) (TD/B/CN.4/6)

"Review of Maritime Transport, 1991" - report by the UNCTAD secretariat (TD/B/CN.4/8 and Corr.1-2)

"Review of activities in the field of shipping, ports and multimodal transport" - note by the UNCTAD secretariat (UNCTAD/SHIP/643).

2. At its 2nd plenary meeting, on 2 November 1992, the Standing Committee decided to convert itself into an informal working group to consider in detail the draft programme of work.

[To be completed as appropriate]

Chapter II

ORGANIZATIONAL MATTERS

A. Opening of the session

1. The first session of the Standing Committee on Developing Services Sectors (Shipping) was opened on 2 November 1992 by the Deputy Secretary-General of UNCTAD.

B. Election of officers

(Agenda item 1)

2. The Deputy Secretary-General of UNCTAD recalled that, at its first pre-sessional executive session, the Trade and Development Board had agreed that the rules of procedure of the main Committees of the Board should be applied to the new Standing Committees, albeit in as flexible a manner as possible, when electing the Officers of the Standing Committees, taking into account the principles of equitable geographical distribution. Furthermore, at the first part of its thirty-ninth session, the Board had reaffirmed that, so far as the Standing Committees were concerned, the Chairman and other members of the Bureau of each of these Committees should be elected at the beginning of each new session and that prior consultations should be held in order to reach agreement beforehand on the membership of the Bureau.

3. At its 1st meeting, on 2 November 1992, the Standing Committee on Developing Services Sectors (Shipping) elected its officers as follows:

Chairman:	Admiral Madhat Abd El Bari	(Egypt)
Vice-Chairmen:	Mr. Ch. Papagiorgakis	(Greece)
	Mr. S.N. Kakar	(India)
	Mr. O. Adegbeyeni	(Nigeria)
	Mr. O. de Rivero	(Peru)
	Mr. V.S. Tysyachnikov	(Russian Federation)
Rapporteur:	Mr. N. Ide	(Japan)

C. Adoption of the agenda and organization of work

(Agenda item 2)

4. At the same meeting, the Standing Committee adopted the provisional agenda circulated in TD/B/CN.4/3. The agenda for the session therefore read as follows:

1. Election of officers
2. Adoption of the agenda and organization of work

3. Establishment of the work programme of the Standing Committee on Developing Services Sectors: Fostering Competitive Services Sectors in Developing Countries: Shipping

4. Provisional agenda for the second session of the Standing Committee (Shipping)

5. Other business

6. Adoption of the report of the Standing Committee (Shipping) to the Trade and Development Board.

D. Provisional agenda for the second session of the Standing Committee (Shipping)

(Agenda item 4)

[To be completed]

E. Other business

(Agenda item 5)

[To be completed as appropriate]

F. Adoption of the report of the Standing Committee (Shipping) to the Trade and Development Board

(Agenda item 6)

[To be completed]

Annex

MEMBERSHIP AND ATTENDANCE

[To be completed]